



# Oregon

John A. Kitzhaber, MD, Governor

Tuesday, May 8, 2012

*FILED VIA ECFS*

Marlene Dortch, Secretary  
Federal Communications Commission  
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## NOTICE OF EX PARTE COMMUNICATION

Re: ***Ex Parte* Filing, CC Docket No. 96-45; WC Docket No. 11-42;  
WC Docket No. 03-109; WC Docket No. 12-23**

Dear Ms. Dortch:

On Thursday, May 3, 2012, Jon Cray, Kay Marinos and Julie Thompson, Staff of the Oregon Public Utility Commission ("OPUC"), and Richard Finnigan and Brant Wolf of the Oregon Telecommunications Association ("OTA"), participated in a teleconference with Jonathan Lechter and Kimberly Scardino of the Wireline Competition Bureau. We discussed several aspects of the April 19, 2012 Petition for Waiver ("Petition") that was jointly filed by the OPUC and the OTA in the above dockets.

Staff of the OPUC reiterated that Oregon cannot meet the June 1, 2012 deadline for adopting all of the Lifeline eligibility criteria required by the Lifeline Reform Order ("Order"), FCC 12-11. As explained in the Petition, eligibility for the state Lifeline program is restricted to participation in programs specified in Oregon law. As the current law does not permit eligibility based only on income, or on participation in a few of the qualifying programs included in the Order, Oregon statutes need to be amended to align with federal Lifeline eligibility criteria. Since the Oregon Legislative Assembly will not convene until February 2013, the Petition requests waiver of the rules until July 1, 2013, the date by which conforming legislation can likely be enacted and become effective.

To date, the OPUC has maintained a comprehensive and unified role in the administration of state and federal Lifeline. For instance, the OPUC produces and reviews Lifeline applications, performs eligibility and verification functions, and operates a centralized database that deters unlawful duplicate benefits. After June 1, absent the requested waiver, the misalignment in state and federal eligibility criteria will necessarily result in a bifurcated approach. The OPUC will continue to perform all functions it currently does for all Lifeline customers qualifying under the state criteria, but the Eligible Telecommunications Carriers ("ETCs") will become responsible for performing similar functions for Lifeline customers



qualifying under the remaining federal criteria. During the call, the OTA clarified that state statutes do not authorize the OPUC to serve or process Lifeline customers that do not meet Oregon criteria. As the OPUC processes and database begin to necessarily exclude a segment of the total Lifeline customer base, the likelihood of incidences of duplicate benefits and waste, fraud, and abuse will increase.

OPUC Staff also briefly addressed the April 25 petition of the United States Telecom Association ("USTelecom"). That petition seeks a temporary waiver from an ETC's obligation to obtain a signed customer certification and a notice of customer eligibility from certain states prior to seeking reimbursement.<sup>1</sup> The petition lists Oregon as one of several states that manage initial Lifeline eligibility determinations for ETCs. OPUC Staff assured the FCC Staff that the OPUC will be ready to implement the required changes to the Lifeline certification form by the June 1, 2012 deadline. However, OPUC Staff indicated that they do not see the need for states to provide each ETC with the customer certification form as required by C.F.R. § 54.410(b)(2)(ii). State notification to ETCs indicating specific customer eligibility should be sufficient. The OPUC can retain the certification forms and provide them to ETCs or USAC should specific needs arise.

Pursuant to § 1.1206(b) of the FCC's rules, this letter is being filed electronically. Please contact me if you have questions or concerns on this matter.

Respectfully,



Jon Cray

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cc (via e-mail): Jonathan Lechter  
Kimberly Scardino  
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Richard Finnigan, OTA Attorney  
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<sup>1</sup> See *Lifeline and Link Up Reform and Modernization et al.*, Petition for Waiver, WC Dkt. Nos. 11-42 *et al.* CC Dkt. No.95-45 (filed Apr. 25, 2012) (*USTelecom Petition*). The Petition references Sections 54.407(d), 54.410(b)(2), and 54.410(c)(2) of the FCC rules.